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AUG 15 2003
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: Yasushige Nakamura et al.

Serial No.: 09/935,668 Group Art Unit: 1756

Filed: August 24, 2001 Examiner: Dote, Janis L.

For: IMAGING COLOR TONER, COLOR IMAGE FORMING METHOD AND
COLOR IMAGE FORMING APPARATUS

DECLARATION UNDER 37 C.F.R. 1.132

Commissioner for Patents
Washington, D.C. 20231

Sir:

I, Masatoshi Kimura, a citizen of Japan, residing at C/O
Fuji Xerox Co., Ltd.; 2274, Hongo, Ebina-shi, Kanagawa
243-0494, Japan, declare and state the following:

(1) That I graduated from Okayama University, Faculty
of Engineering, Department of Electronic Engineering, in
1973,

completed a master course of Osaka University,
Graduate school of Engineering, Department of Electronic
Engineering, in 1975,

joined Fujitsu Laboratories Ltd. (Kanagawa) in
1975,

was transferred from Fujitsu Laboratories Ltd.
to Fujitsu Limited (Kanagawa), and

changed from Fujitsu Limited to Fuji Xerox
Co., Ltd. (Kanagawa);

(2) That I was and am engaged in research and
development of an electrostatic recording process and an
electrophotographic process in Fujitsu Laboratories Ltd.,
Fujitsu Limited and Fuji Xerox Co., Ltd.;

(3) That I have a doctorate in Engineering and am a
director of The Imaging Society of Japan (ISJ), Tokyo;

(4) That I fully understand the Japanese and English
languages;

(5) That I have read the English language specification
of the present application and its Japanese counterpart,
Japanese Language specification of Japanese Patent
Application No. 2001-101159, filed March 30, 2001;

(6) That I noted the readily apparent misuse of the

"second, non-linear polyester" in the specification and appended claims of the present application;

(7) That it was readily apparent to the Declarant from the disclosure of the specification that "second, non-linear polyester" should be revised to the intended meaning "second, linear [non-linear] polyester" because:

(a) There is a logical incongruity between the first, non-linear polyester "and the second, non-linear polyester", since these two polyesters must have different structures and properties to attain the intended synergistic effects in the resulting toner as is apparent to a person skilled in the art from the context of the specification, for example, page 10, lines 3 to 25 of the specification.

(b) Generally, the term "non-linear polyester" means a polyester resin containing a three-dimensionally crosslinked component (gel component), whereas "linear polyester" means a polyester resin containing no crosslinked component. Referring to Table 1 on page 24 of the specification, "polyesters 1-1 to 1-5" contain trimellitic acid as a crosslinking component and thus contain a produced chloroform insoluble in an amount of 0.5 to 30%. These features evidence that the first polyester is a non-linear polyester. On the other hand, the second polyesters

("polyesters 2-1 to 2-5") do not contain a crosslinking component and thus contain no chloroform insoluble produced. These features evidence that the second polyester is a linear polyester. It is therefore apparent that the inventors of this application have described the second polyester in error to be a non-linear polyester.

(C) Paragraph 0021 of the Japanese language specification of Japanese Patent Application No. 2001-101159, as the Examiner can see from the English language translation thereof, prepared and sworn by Mr. Keizo Komoriya of A. Aoki, Ishida & Associates, discloses as follows:

--The first polyester resin is a non-linear polyester resin containing a tri- or polyvalent monomer, and also has a comparatively high molecular weight, and thus exhibits excellent void resistance, but is not easily fixed by means of low light emission energy. On the other hand, the second polyester resin is a linear polyester resin and can have excellent low energy fixability. However, the second polyester resin is inferior in void resistance because of its low viscosity.--

This evidences that the recitation of the second non-linear polyester in the specification and appended claims of this application was made in error.

The undersigned declares that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements are punishable by fine or imprisonment or both under §1001 of Title 18 of the United States Code, and that willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed this 5th day of August , 2003.

Masatoshi Kimura

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